

11-38-101. Title.

This chapter is known as the "Quality Growth Act."

Enacted by Chapter 24, 1999 General Session

11-38-102. Definitions.

As used in this chapter:

(1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.

(2) "Agricultural land" has the same meaning as "land in agricultural use" under Section 59-2-502.

(3) "Brownfield sites" means abandoned, idled, or underused commercial or industrial land where expansion or redevelopment is complicated by real or perceived environmental contamination.

(4) "Commission" means the Quality Growth Commission established in Section 11-38-201.

(5) "Infill development" means residential, commercial, or industrial development on unused or underused land, excluding open land and agricultural land, within existing, otherwise developed urban areas.

(6) "Local entity" means a county, city, or town.

(7) (a) "Open land" means land that is:

(i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

(D) another use consistent with the preservation of the land in or restoration of the land to a predominantly natural, open, and undeveloped condition.

(b) (i) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activity.

(ii) The condition of land does not change from a natural, open, and undeveloped condition because of the development or presence on the land of facilities, including trails, waterways, and grassy areas, that:

(A) enhance the natural, scenic, or aesthetic qualities of the land; or

(B) facilitate the public's access to or use of the land for the enjoyment of its natural, scenic, or aesthetic qualities and for compatible recreational activities.

(8) "Program" means the LeRay McAllister Critical Land Conservation Program established in Section 11-38-301.

(9) "Surplus land" means real property owned by the Department of Administrative Services, the Department of Agriculture and Food, the Department of Natural Resources, or the Department of Transportation that the individual department determines not to be necessary for carrying out the mission of the department.

Amended by Chapter 310, 2013 General Session

11-38-201. Quality Growth Commission -- Term of office -- Vacancy -- Organization -- Expenses -- Staff.

(1) (a) There is created a Quality Growth Commission consisting of:

- (i) the director of the Department of Natural Resources;
- (ii) the commissioner of the Department of Agriculture and Food;
- (iii) six elected officials at the local government level, three of whom may not be residents of a county of the first or second class; and

- (iv) five persons from the profit and nonprofit private sector, two of whom may not be residents of a county of the first or second class and no more than three of whom may be from the same political party and one of whom shall be from the residential construction industry, nominated by the Utah Home Builders Association, and one of whom shall be from the real estate industry, nominated by the Utah Association of Realtors.

(b) (i) The director of the Department of Natural Resources and the commissioner of the Department of Agriculture and Food may not assume their positions on the commission until:

(A) after May 1, 2005; and

(B) the term of the respective predecessor in office, who is a state government level appointee, expires.

(ii) The term of a commission member serving on May 1, 2005 as one of the six elected local officials or five private sector appointees may not be shortened because of application of the restriction under Subsections (1)(a)(iii) and (iv) on the number of appointees from counties of the first or second class.

(2) (a) Each commission member appointed under Subsection (1)(a)(iii) or (iv) shall be appointed by the governor with the consent of the Senate.

(b) The governor shall select three of the six members under Subsection (1)(a)(iii) from a list of names provided by the Utah League of Cities and Towns, and shall select the remaining three from a list of names provided by the Utah Association of Counties.

(c) Two of the persons appointed under Subsection (1) shall be from the agricultural community from a list of names provided by Utah farm organizations.

(3) (a) The term of office of each member is four years, except that the governor shall appoint one of the persons at the state government level, three of the persons at the local government level, and two of the persons under Subsection (1)(a)(iv) to an initial two-year term.

(b) No member of the commission may serve more than two consecutive four-year terms.

(4) Each mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsection (2).

(5) Commission members shall elect a chair from their number and establish rules for the organization and operation of the commission.

(6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (a) Section 63A-3-106;
- (b) Section 63A-3-107; and
- (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) A member is not required to give bond for the performance of official duties.
- (8) Staff services to the commission:
 - (a) shall be provided by the Governor's Office of Management and Budget; and
 - (b) may be provided by local entities through the Utah Association of Counties and the Utah League of Cities and Towns, with funds approved by the commission from those identified as available to local entities under Subsection 11-38-203(1)(a).

Amended by Chapter 310, 2013 General Session

11-38-202. Commission duties and powers -- No regulatory authority.

- (1) The commission shall:
 - (a) make recommendations to the Legislature on how to define more specifically quality growth areas within the general guidelines provided to the commission by the Legislature;
 - (b) advise the Legislature on growth management issues;
 - (c) make recommendations to the Legislature on refinements to this chapter;
 - (d) conduct a review in 2002 and each year thereafter to determine progress statewide on accomplishing the purposes of this chapter, and give a report of each review to the Political Subdivisions Interim Committee of the Legislature by November 30 of the year of the review;
 - (e) administer the program as provided in this chapter;
 - (f) assist as many local entities as possible, at their request, to identify principles of growth that the local entity may consider implementing to help achieve the highest possible quality of growth for that entity;
 - (g) fulfill other responsibilities imposed on the commission by the Legislature;
- and
- (h) fulfill all other duties imposed on the commission by this chapter.
- (2) The commission may sell, lease, or otherwise dispose of equipment or personal property belonging to the program, the proceeds from which shall return to the fund.
- (3) The commission may not exercise any regulatory authority.

Amended by Chapter 368, 2009 General Session

11-38-203. Commission may provide assistance to local entities.

The commission may:

- (1) from funds appropriated to the Governor's Office of Management and Budget by the Legislature for this purpose, grant money to local entities to help them obtain the technical assistance they need to:
 - (a) conduct workshops or public hearings or use other similar methods to obtain public input and participation in the process of identifying for that entity the principles of quality growth referred to in Subsection 11-38-202(1)(f);

(b) identify where and how quality growth areas could be established within the local entity; and

(c) develop or modify the local entity's general plan to incorporate and implement the principles of quality growth developed by the local entity and to establish quality growth areas; and

(2) require each local entity to which the commission grants money under Subsection (1) to report to the commission, in a format and upon a timetable determined by the commission, on that local entity's process of developing quality growth principles and on the quality growth principles developed by that local entity.

Amended by Chapter 310, 2013 General Session

11-38-301. LeRay McAllister Critical Land Conservation Program.

(1) There is created a program entitled the "LeRay McAllister Critical Land Conservation Program."

(2) Funding for the program shall be a line item in the budget of the Quality Growth Commission. The line item shall be nonlapsing.

Amended by Chapter 368, 2009 General Session

11-38-302. Use of money in program -- Criteria -- Administration.

(1) Subject to Subsection (2), the commission may authorize the use of money in the program, by grant, to:

- (a) a local entity;
- (b) the Department of Natural Resources created under Section 79-2-201;
- (c) the Department of Agriculture and Food created under Section 4-2-1; or
- (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code.

(2) (a) The money in the program shall be used for preserving or restoring open land and agricultural land.

(b) (i) Except as provided in Subsection (2)(b)(ii), money from the program may not be used to purchase a fee interest in real property in order to preserve open land or agricultural land, but may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or agricultural land.

(ii) Notwithstanding Subsection (2)(b)(i), money from the fund may be used to purchase a fee interest in real property to preserve open land or agricultural land if:

- (A) the parcel to be purchased is no more than 20 acres in size; and
- (B) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental entity that purchased the fee interest in real property.

(iii) Eminent domain may not be used or threatened in connection with any purchase using money from the program.

(iv) A parcel of land larger than 20 acres in size may not be divided into separate parcels smaller than 20 acres each to meet the requirement of Subsection

(2)(b)(ii).

(c) A local entity, department, or organization under Subsection (1) may not receive money from the program unless it provides matching funds equal to or greater than the amount of money received from the program.

(d) In granting money from the program, the commission may impose conditions on the recipient as to how the money is to be spent.

(e) The commission shall give priority to requests from the Department of Natural Resources for up to 20% of each annual increase in the amount of money in the program if the money is used for the protection of wildlife or watershed.

(f) (i) The commission may not make a grant from the program that exceeds \$1,000,000 until after making a report to the Legislative Management Committee about the grant.

(ii) The Legislative Management Committee may make a recommendation to the commission concerning the intended grant, but the recommendation is not binding on the commission.

(3) In determining the amount and type of financial assistance to provide an entity, department, or organization under Subsection (1) and subject to Subsection (2)(f), the commission shall consider:

(a) the nature and amount of open land and agricultural land proposed to be preserved or restored;

(b) the qualities of the open land and agricultural land proposed to be preserved or restored;

(c) the cost effectiveness of the project to preserve or restore open land or agricultural land;

(d) the funds available;

(e) the number of actual and potential applications for financial assistance and the amount of money sought by those applications;

(f) the open land preservation plan of the local entity where the project is located and the priority placed on the project by that local entity;

(g) the effects on housing affordability and diversity; and

(h) whether the project protects against the loss of private property ownership.

(4) If a local entity, department, or organization under Subsection (1) seeks money from the program for a project whose purpose is to protect critical watershed, the commission shall require that the needs and quality of that project be verified by the state engineer.

(5) Each interest in real property purchased with money from the program shall be held and administered by the state or a local entity.

Amended by Chapter 344, 2009 General Session

Amended by Chapter 368, 2009 General Session

11-38-304. Commission to report annually.

The commission shall submit an annual report to the Executive Offices and Criminal Justice Appropriations Subcommittee:

(1) specifying the amount of each disbursement from the program;

(2) identifying the recipient of each disbursement and describing the project for

which money was disbursed; and

(3) detailing the conditions, if any, placed by the commission on disbursements from the program.

Amended by Chapter 323, 2010 General Session